

INSTRUCTIONAL MEMORANDUMS

To Local Public Agencies



To: Counties and Cities	Date: April 12, 2007
From: Office of Local Systems	I.M. No. 3.720
Subject: Local Letting Process – Federal-aid	

Contents: This Instructional Memorandum (I.M.) includes the required methods, procedures, documents, and forms that a Local Public Agency (LPA) shall use to procure and administer a Federal-aid construction contract through a local letting or solicitation of quotes. This I.M. also includes the following attachments:

- [Attachment A](#) – Pre-Award Checklist and Certification
- [Attachment B](#) – Post-Award Checklist and Certification
- [Attachment C](#) – Supplemental Agreement

Introduction

In an effort to streamline the delivery of Transportation Enhancement (TE) program projects, on November 12, 1996, the Federal Highway Administration (FHWA) issued a memorandum that permitted additional flexibility in the procurement of construction contracts for TE projects.

This FHWA memo permits an LPA to procure a construction contract for TE projects that are not located on the street or highway right-of-way according to Title 49 of the Code of Federal Regulations, Part 18 ([49 CFR 18](#)), also known as the Common Rule. The Common Rule allows the LPA to use State procedures (i.e., State laws, regulations, and policies) to procure a construction contract. *For work that is located on the street or highway right-of-way, in addition to the Common Rule requirements, the competitive bidding requirements of [23 CFR 635, Subpart A](#) must also be satisfied.*

This I.M. describes the State procedures that have been developed by the Iowa DOT and approved by the FHWA. These procedures may be used for qualifying contracts where the work is either on or off the highway right-of-way. Since 1996, the FHWA has also allowed certain other types of Federal-aid contracts to follow these procedures.

Definitions

Qualifying contract – To use these procedures, the proposed contract must meet *all* of the following conditions:

1. The contract work will be reimbursed by one or more of the following Federal transportation programs:
 - Transportation Enhancement
 - Federal Recreational Trails
 - National Scenic Byways
 - Safe Routes to School (infrastructure projects only)

If the contract work will be reimbursed by *any other* type of Federal funds, the contract shall be let by the Iowa DOT.

2. The contract work is part of a public improvement project.
3. If the contract work includes construction of a bicycle or pedestrian trail that involves grading or hard surface paving, such as asphalt or concrete, the estimated contract cost is less than \$100,000.

Public improvement – As defined in Section 26.2 of the Code of Iowa. In summary, this includes any building or construction work which is constructed under the control of a governmental entity and is paid for in whole or in part with funds of the governmental entity. However, this definition excludes several specific types of work, such as: work that is part of a road, bridge, or culvert project; and repair or maintenance work performed by government employees.

Public improvement project – A project that involves construction, reconstruction, or improvement that results in a betterment to a facility by improving its original design or function.

Procurement Methods

The LPA shall procure a construction contract by using either competitive bids or competitive quotes in accordance with Chapter 26 of the Code of Iowa, as described below.

Competitive quotes

This relatively simple procurement method shall be used for securing services or supplies that do not cost more (in aggregate) than the current applicable competitive bid thresholds, as specified by the Code of Iowa. The required procedures for competitive quotations are specified by Section 26.14 of the Code of Iowa and 761 Iowa Administrative Code, Chapter 180 ([761 IAC 180](#)).

In summary, this method requires the LPA to:

1. make an oral or written solicitation for quotes that describes the work to be performed, including plans and specifications, if applicable, and all other required terms, conditions, and pertinent information;
2. make a good faith effort to obtain at least two quotes from contractors regularly engaged in the type of work to be performed; and
3. award a firm, fixed-price (lump sum or unit price) contract to the responsible quoter whose quote, conforming with all the material terms and conditions of the solicitation for quotes, is the lowest in price; or reject all quotes.

Note: Some of the procedures allowed by Chapter 26 of the Code of Iowa and 761 IAC 180 are not allowed for Federal-aid contracts procured under the procedures outlined in this I.M. These restrictions include:

- As a minimum, competitive quotes shall be used, even if not required by the Code of Iowa.
- For projects located on a public road right-of-way, no public agency shall be allowed to submit quotes for the proposed contract work.

Competitive bids

This procurement method shall be used for contracts with estimated costs in excess of the current applicable competitive bid thresholds, as specified by the Code of Iowa. The required procedures for a public letting are specified by Sections 26.3 through 26.13 of the Code of Iowa.

In summary, this method requires the LPA to:

1. publish a public advertisement for sealed bids;
2. hold a public hearing on the proposed plans, specifications, and estimate;
3. at the time and place specified in the notice to bidders, open, announce the amount of the bids, and file all proposals received; and
4. pass a resolution to either: award a firm, fixed-price (lump sum or unit price) contract to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price; or reject all bids.

Bid Thresholds

The bid thresholds specified by the Code of Iowa are updated regularly. For the current thresholds, refer to the Office of Local Systems' [Bid and Quote Thresholds for Iowa Cities and Counties](#) web page. Contracts that qualify for the procedures outlined in this I.M. shall use the bid thresholds for Vertical Infrastructure, as listed on this web page.

Division of Contract Work

Work of the same type (i.e., typically done by a certain construction trade) shall not be arbitrarily broken into separate contracts in order to avoid the competitive bid threshold or to qualify for use of the local procurement procedures outlined in this I.M.

Example: If the project involves trail construction with an estimated total cost of \$150,000, the project work may not be broken into two separate contracts of \$75,000 each.

Work of different types may be divided into separate contracts and may be considered independently under the qualifying contract criteria, provided all of the following conditions are met: a) all resulting contracts will be procured using at least competitive quotes; b) at least one of the resulting contracts will be procured using

competitive bids, and c) all resulting contracts with an estimated cost in excess of the competitive bid threshold will be procured by competitive bids.

Example: A depot renovation project has an estimated total cost of \$215,000 and will procure separate contracts for the roofing work (estimated at \$20,000), exterior brick tuck-pointing (estimated at \$70,000) and interior finish woodwork (estimated at \$125,000). In this example, the finish woodwork must be let for bids, because the estimated cost for this contract still exceeds the competitive bid threshold. The roofing and tuck-pointing contracts may be procured using either bids or quotes.

Procedures

To satisfy and document the State and Federal requirements for locally procured Federal-aid contracts, the following procedures have been developed. The LPA shall thoroughly review all of these procedures and associated documents before beginning the process for locally procured Federal-aid contracts. Note: *Failure to follow these procedures may jeopardize Federal-aid reimbursement of the work.*

Instructions and Checklists

[Attachment A](#) – Pre-Award Checklist and Certification describes the step-by-step process that the LPA must follow to ensure compliance with the applicable State and Federal regulations related to procurement of the construction contract. Prior to awarding a contract, this checklist and certification shall be completed by the LPA and submitted to Iowa DOT to document compliance with these regulations.

[Attachment B](#) – Post-Award Checklist and Certification describes the step-by-step process that the LPA must follow to ensure compliance with the applicable State and Federal regulations related to performance of the construction contract. Prior to requesting final reimbursement for the contract work, this checklist and certification shall be completed by the LPA and submitted to Iowa DOT to document compliance with these regulations.

Agreement

Because of the additional responsibilities assumed by the LPA under these procedures, an additional agreement must be executed, as shown in [Attachment C](#) – Supplemental Agreement. This agreement between the LPA and the Iowa DOT specifies the LPA's responsibilities in procuring a Federal-aid construction contract. This agreement must be executed before advertising for bids or quotes.

Documents and Forms

The bid / quote documents and construction forms listed below are not included as an attachment to this I.M. However, all of these documents are available on the Internet in either Adobe Acrobat's Portable Document Format (PDF) or Microsoft Word format, or in some cases, both. These documents may be downloaded individually by clicking on the links below, or as a group in the Forms Packet.

To download the Forms Packet:

1. [Click here.](#)
2. When prompted, click on "Save."
3. Specify a location on your computer or network.
4. At the "Download Complete" dialogue box, click "Open Folder."
5. Double click on the file named "forms.exe."
6. At the WinZip Self-extractor dialogue box, click on "Browse," select a folder, and click "OK."
7. Click on the "Unzip" button.
8. After the extraction is complete, click "OK," then "Close."

Bid / Quote Documents

The following forms and contract documents shall be used when obtaining bids or quotes, as outlined in [Attachment A](#) - Pre-Award Checklist and Certification:

- *Bidding Proposal for County / City Projects (Form 740384)* ([PDF](#)) ([Word](#)). This Iowa DOT form must be used for taking sealed bids for qualifying contracts.
- *Request for Quotation (Form 740386)* ([PDF](#)) ([Word](#)). This Iowa DOT form must be used for receiving quotes for qualifying contracts.

- *Proposal Notice* ([PDF](#)). This document lists and summarizes the Federal-aid contract provisions that shall apply to the contract work. As a condition of the bid or quote, the person or firm submitting the bid or quote agrees to the certifications and regulations set forth in this document.
- *DBE Contract Provisions* ([PDF](#)). If a Disadvantaged Business Enterprise (DBE) goal will be set for the contract, these additional contract provisions shall also be included as part of both the bid documents and the signed contract documents. This document specifies the Contractor's DBE obligations related to the DBE program.
- *Statement of DBE Commitments (Form 517012)* ([PDF](#)). If a DBE goal was set for the contract, this form must be completed by the bidder and signed by the LPA to document the amount of DBE commitment for the contract. Even if a goal was not set, the LPA shall complete the applicable portions of the form and submit it to the Administering Office. For more information, refer to the instructions included with the form.
- *Bulletin Reporting Form (Form 650013)* ([PDF](#)) ([Word](#)). Qualifying contracts that involve highway type work must be advertised in the Iowa DOT's [Local Agency Letting Information Report](#), published by the Office of Contracts. This form may be used to supply the necessary information to the Iowa DOT so the project may be advertised in the Weekly Letting Report. If the contract will be obtained using quotes, or is for non-highway type work, advertisement in the Weekly Letting Report is encouraged, but not required.

Construction Forms

The following forms must be used in administering the construction contract, as outlined in [Attachment B – Post-Award Checklist and Certification](#):

- *Project Engineer's EEO Project Site Inspection / Wage Report (Form 650170)* ([PDF](#)) This form is used for verification and documentation of compliance with Equal Employment Opportunity (EEO) and minimum wage rate requirements.
- *Form FHWA-1391* ([PDF](#)) For all open Federal-aid contracts in July, the Contractor must complete this form and submit it to the Iowa DOT in order to document the race and gender of its employees working on the contract during the last week in July.
- *Certification of Subcontractor Payments (Form 518002)* ([Word](#)) This form shall be completed by the Contractor and submitted with the request for final payment. It documents the timeliness of payments made to subcontractors in accordance with the prompt payment requirements included in the *Proposal Notice*.
- *Certification of DBE Accomplishments (Form 517013)* ([PDF](#)) This form documents the actual amounts paid to DBE firms on all locally procured Federal-aid contracts. Even if a goal was not set or no DBE firms were used, the LPA shall complete the applicable portions of the form and submit it to the Administering Office. For more information, refer to the instructions included with the form.
- *Change Order (Form 830240)* ([PDF](#)) ([Word](#)) This form shall be used to document any changes to the contract as construction progresses. It must be initiated by the LPA and approved by the Iowa DOT before any change order related work is completed. A final change order form must also accompany the LPA's request for final reimbursement.
- *Certificate of Completion and Final Acceptance of Agreement Work (Form 640003)* ([PDF](#)) ([Word](#)) This form is also completed by the LPA and forwarded to the Iowa DOT with the LPA's request for final reimbursement. It is used to verify that the LPA and the Iowa DOT have accepted the contract work as complete.
- *Interest Payment Information (Form 830236)* ([PDF](#)) This form must accompany the LPA's request for final reimbursement. This form provides information necessary to determine if interest is due to the Contractor, as required by the Code of Iowa, [Section 573.14](#). If interest is due, the Iowa DOT will return this form to the LPA with the appropriate interest rate. The LPA shall then calculate and make the interest payment that is due the Contractor. For more information, refer [I.M. 3.930](#), Interest Payment Procedures.